

REMARKS

Claims 1-25 are rejected. Claims 1, 8, 9, 10, 12, 19 and 23 are amended. Claims 2, 3, 11, 13, 14, 20, and 21 are canceled. No new matter has been added.

CLAIM REJECTIONS – 35 U.S.C. 102(e)

Claims 1-5 and 19-25 are rejected under 35 U.S.C. 102(3) as being anticipated by U.S. Patent No. 6,920,112 by McCloghrie et al., hereinafter referred to as the “McCloghrie” reference. Applicants have reviewed the cited reference and respectfully submit that the present invention as recited in Claims 1-5 and 19-25 is not anticipated by McCloghrie.

Applicants respectfully direct the Examiner to currently amended independent Claim 1 that recites that an embodiment of the present invention is directed to (emphasis added):

A network device comprising:

a processor, wherein said processor is integrated within said network device;
an input interface for receiving a plurality of packets coupled to said processor, said input interface comprising at least one input port wherein at least one said input port is configured to sample at least one input packet and transmit a sampled input packet to said processor, wherein at least one said input port comprises a countdown register, and wherein said input port is configured to sample a packet according to said countdown register;

an output interface for transmitting a plurality of packets coupled to said processor, said output interface comprising at least one output port wherein at least one said output port is configured to sample at least one output packet and transmit a sampled output packet to said processor, wherein said input interface and said output interface feed into said processor, wherein at least one said output port comprises a countdown register, and wherein said output port is configured to sample a packet according to said countdown register; and

a switching fabric coupled to said input interface and said output interface, said switching fabric configured to transmit a packet between said input interface and said output interface.

Currently amended independent Claims 10, 19 and 23 recite similar limitations.

According to the Federal Circuit, “anticipation requires the disclosure in a single prior art reference of each claim under consideration” (*W.L. Gore & Assocs. v. Garlock /nc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983); see also MPEP 2131). However, it is not sufficient that the reference recite all the claimed elements. As stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention “arranged as in the claim” (emphasis added; *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPO 481, 485 (Fed. Cir. 1984); see also *In re Bond*, 910 F.2d 831, 15 USFQ2d 1566 (Fed. Cir. 1990); see also MPEP 2131). In otherwords “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim” (emphasis added; *Richardson v. Suzuki MotorCo.*, 868 F.2d 1226, 1236, 9 USFQ2d 1913, 1920 (Fed. Cir. 1989); see also MPEP 2131).

McCloghrie is distinct from the present claimed invention. The Examiner alleged in the previous Office Action that the traffic management element taught in McCloghrie is the same as a processor in the present claimed invention. Specifically, the Examiner equates traffic management element 120 of Figure 1 in McCloghrie to the processor in the present claimed invention.

However, Applicant respectfully asserts that traffic management element 120 is different from the processor in the present claimed invention. Claim 1 recites in part “said processor is integrated within said network device.” In contrast, the traffic management element 120 in McCloghrie is shown as being *external* of the router or switch. (Fig 1 of McCloghrie)

Furthermore, Claim 1 recites in part that “at least one of said input port comprises a countdown register, wherein said input port is configured to sample a packet according to said countdown register...and wherein at least one of said output port

comprises a countdown register, wherein said output port is configured to sample a packet according to said countdown register.” McCloghrie reference fails to show that a countdown register is used.

Therefore, Applicants respectfully assert that nowhere does McCloghrie teach, disclose or suggest the claimed embodiments of the present invention as recited in independent Claims 1, 19 and 23, that these claims overcome the rejection under 35 U.S.C. § 102(e), and are thus in condition for allowance. Applicants respectfully submit that McCloghrie also does not teach or suggest the additional claimed features of the present invention as recited in Claims 4 and 5 that depend from independent Claim 1, Claim 22 that depends from independent Claim 19, and Claims 24–25 that depend from independent Claim 23. Therefore, Applicants respectfully submit that Claims 4, 5, 22, 24, and 25 also overcome the rejection under 35 U.S.C. § 102(e), and are in a condition for allowance as being dependent on allowable base claims.

CLAIM REJECTIONS – 35 U.S.C. §103(a)

Claims 6 and 7 are rejected under 35 U.S.C. §103(a) as being unpatentable over McCloghrie in view of U.S. Patent No. 6,658,006 by Chen, hereinafter referred to as the “Chen” reference.

Claims 8, 9, 12, and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over McCloghrie in view of U.S. Patent No. 6,442,585 by Dean et al., hereinafter referred to as the “Dean” reference.

Claims 10, 11, 13, 15, and 16 are rejected under 35 U.S.C. §103(a) as being unpatentable over McCloghrie in view of U.S. Patent No. 5,596,609 by Genrich et al., hereinafter referred to as the “Genrich” reference.

Applicants respectfully direct the Examiner to currently amended independent Claim 1 that recites that an embodiment of the present invention is directed to (emphasis added):

A network device comprising:

a processor, wherein said processor is integrated within said network device;

an input interface for receiving a plurality of packets coupled to said processor, said input interface comprising at least one input port wherein at least one said input port is configured to sample at least one input packet and transmit a sampled input packet to said processor, wherein at least one said input port comprises a countdown register, and wherein said input port is configured to sample a packet according to said countdown register;

an output interface for transmitting a plurality of packets coupled to said processor, said output interface comprising at least one output port wherein at least one said output port is configured to sample at least one output packet and transmit a sampled output packet to said processor, wherein said input interface and said output interface feed into said processor, wherein at least one said output port comprises a countdown register, and wherein said output port is configured to sample a packet according to said countdown register; and

a switching fabric coupled to said input interface and said output interface, said switching fabric configured to transmit a packet between said input interface and said output interface.

Currently amended independent Claims 10, 19 and 23 recite similar limitations.

According to the Federal Circuit, “anticipation requires the disclosure in a single prior art reference of each claim under consideration” (*W.L. Gore & Assocs. v. Garlock /nc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983); see also MPEP 2131). However, it is not sufficient that the reference recite all the claimed elements. As stated by the Federal Circuit, the prior art reference must disclose each element of the claimed invention “arranged as in the claim” (emphasis added; *Lindermann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPO 481, 485 (Fed. Cir. 1984); see also *In re Bond*, 910 F.2d 831, 15 USFQ2d 1566 (Fed. Cir. 1990); see also MPEP 2131). In otherwords “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim” (emphasis added; *Richardson v. Suzuki MotorCo.*, 868 F.2d 1226, 1236, 9 USFQ2d 1913, 1920 (Fed. Cir. 1989); see also MPEP 2131).

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However, Applicant respectfully asserts that traffic management element 120 is different from the processor in the present claimed invention. Claim 1 recites in part "said processor is integrated within said network device." In contrast, the traffic management element 120 in McCloghrie is shown as being *external* of the router or switch. (Fig 1 of McCloghrie)

Furthermore, Claim 1 recites in part that "at least one of said input port comprises a countdown register, wherein said input port is configured to sample a packet according to said countdown register...and wherein at least one of said output port comprises a countdown register, wherein said output port is configured to sample a packet according to said countdown register." McCloghrie reference fails to show that a countdown register is used.

Furthermore, McCloghrie in combination with Genrich, Dean, and/or Chen also fails to teach, describe, suggest, or render obvious "said processor is integrated within said network device...at least one of said input port comprises a countdown register, wherein said input port is configured to sample a packet according to said countdown register...and wherein at least one of said output port comprises a countdown register, wherein said output port is configured to sample a packet according to said countdown register" as recited in currently amended independent Claim 1. Consequently, Genrich, Dean, and/or Chen alone or in combination do not cure the defects of the McCloghrie reference.

Therefore, Applicant respectfully submits that Claims 1 and 10 are in condition for allowance, and as such, Claims 6–9 dependent on Claim 1 and Claims 12, 16, 17, and 18 dependent on Claim 10 are also in condition for allowance as being dependent on allowable base claims.

SUMMARY

In view of the foregoing remarks, the Applicant respectfully submits that the pending claims in the instant patent application are in condition for allowance. The Applicant respectfully requests reconsideration of the Application and allowance of the pending claims.

If the Examiner determines the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact William P. O'Meara at (970) 898-7917.

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